

**Long-term Disability Benefit Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Cheryl K. Acton

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**LONG TITLE****Committee Note:**

The Retirement and Independent Entities Interim Committee recommended this bill.

Legislative Vote: 10 voting for 0 voting against 5 absent

**General Description:**

This bill modifies provisions related to public employee long-term disability benefits.

**Highlighted Provisions:**

This bill:

- modifies the definition of gainful employment for purposes of the Public Employees'

Long-Term Disability Act;

- includes pay for time that exceeds an eligible employee's regular schedule in the calculation of the eligible employee's regular monthly salary;

- establishes a death benefit for employees receiving long-term disability benefits; and

- makes life assistance counseling that the Utah State Retirement Office offers available to employees receiving long-term disability benefits.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**49-11-609 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,  
Chapter 24

**49-21-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,  
Chapter 274

**49-21-401 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,  
Chapter 274

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31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **49-11-609** is amended to read:

33 **49-11-609 (Effective upon governor's approval). Beneficiary designations --**  
34 **Revocation of beneficiary designation -- Procedure -- Beneficiary not designated --**  
35 **Payment to survivors in order established under the Uniform Probate Code --**  
36 **Restrictions on payment -- Payment of deceased's expenses.**

37 (1) As used in this section, "member" includes a member, retiree, participant, covered  
38 individual, eligible employee as defined in Section 49-21-102, a spouse of a retiree  
39 participating in the insurance benefits created by Sections 49-12-404, 49-13-404,  
40 49-22-307, and 49-23-306, or an alternate payee under a domestic relations order  
41 dividing a defined contribution account.

42 (2)(a) Except as provided under Subsection (2)(b) or (c), the most recent beneficiary  
43 designations signed by the member and filed with the office, including electronic  
44 records, at the time of the member's death are binding in the payment of any benefits  
45 due under this title.

46 (b)(i) The divorce or annulment of a member's marriage shall revoke the member's  
47 former spouse as a beneficiary from any of the member's beneficiary designations.

48 (ii) A revocation of a former spouse as a beneficiary in accordance with Subsection  
49 (2)(b)(i) does not revoke any other beneficiaries named on the member's  
50 beneficiary designations.

51 (c) A former spouse whose beneficiary designation is revoked solely under Subsection  
52 (2)(b) shall be revived on the member's beneficiary designations by:

53 (i) the member's remarriage to the former spouse; or

54 (ii) a nullification of the divorce or annulment.

55 (d) A revocation under Subsection (2)(b) does not apply to a former spouse named as a  
56 beneficiary in a beneficiary designation signed by the member and filed with the  
57 office after the date of the divorce or annulment.

58 (e) The office is not liable for having made a payment of any benefits to a beneficiary  
59 designated in a beneficiary designation affected by a divorce, annulment, or  
60 remarriage before the office received written notice of the divorce, annulment, or  
61 remarriage.

62 (3)(a) Except where an optional continuing benefit is chosen, or the law makes a  
63 specific benefit designation to a dependent spouse, a member may revoke a  
64 beneficiary designation at any time and may execute and file a different beneficiary

65 designation with the office.

66 (b) A beneficiary designation or change of beneficiary designation shall be completed on  
67 forms provided by the office.

68 (4)(a) All benefits payable by the office may be paid or applied to the benefit of the  
69 decedent's heirs in the order of precedence established under Title 75, Chapter 2,  
70 Intestate Succession and Wills, if:

71 (i) no beneficiary is designated or if all designated beneficiaries have predeceased the  
72 member;

73 (ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by  
74 the office within 12 months of the date a reasonable attempt is made by the office  
75 to locate the beneficiaries; or

76 (iii) the beneficiary has not completed the forms necessary to pay the benefits within  
77 six months of the date that beneficiary forms are sent to the beneficiary's  
78 last-known address.

79 (b)(i) A payment may not be made to a person included in any of the groups referred  
80 to in Subsection (4)(a) if at the date of payment there is a living person in any of  
81 the groups preceding it.

82 (ii) Payment to a person in any group may be based upon receipt of an affidavit in a  
83 form satisfactory to the office that:

84 (A) there are no living individuals in the group preceding it;

85 (B) the probate of the estate of the deceased has not been commenced; and

86 (C) more than 30 days have elapsed since the date of death of the decedent.

87 (5) Benefits paid under this section shall be:

88 (a) a full satisfaction and discharge of all claims for benefits under this title; and

89 (b) payable by reason of the death of the decedent.

90 Section 2. Section **49-21-102** is amended to read:

91 **49-21-102 (Effective upon governor's approval). Definitions.**

92 As used in this chapter:

93 (1) "Date of disability" means the date on which a period of total disability begins, and may  
94 not begin on or before the last day of performing full-duty work in the eligible  
95 employee's regular occupation.

96 (2)(a) "Eligible employee" means any of the following employees whose employer  
97 provides coverage under this chapter:

98 (i)(A) any regular full-time employee as defined under Section 49-12-102,

- 99 49-13-102, or 49-22-102;
- 100 (B) any public safety service employee as defined under Section 49-14-102,
- 101 49-15-102, or 49-23-102;
- 102 (C) any firefighter service employee or volunteer firefighter as defined under
- 103 Section 49-23-102 who began firefighter service on or after July 1, 2011;
- 104 (D) any judge as defined under Section 49-17-102 or 49-18-102; or
- 105 (E) the governor of the state;
- 106 (ii) an employee who is exempt from participating in a retirement system under
- 107 Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and
- 108 (iii) an employee who is covered by a retirement program offered by a public or
- 109 private system, organization, or company designated by the Utah Board of Higher
- 110 Education.
- 111 (b) "Eligible employee" does not include:
- 112 (i) any employee that is exempt from coverage under Section 49-21-201; or
- 113 (ii) a retiree.
- 114 (3) "Elimination period" means the three months at the beginning of each continuous period
- 115 of total disability for which no benefit will be paid. The elimination period begins on
- 116 the nearest first day of the month from the date of disability. The elimination period
- 117 may include a one-time trial return to work period of less than 15 consecutive calendar
- 118 days.
- 119 (4)(a) "Gainful employment" means any occupation or employment position in the state
- 120 that:
- 121 (i) contemplates continued employment during a fiscal or calendar year; and
- 122 (ii) would pay an amount equal to or greater than 40 hours per week at ~~[the legally~~
- 123 ~~required minimum wage]~~ 60% of the eligible employee's regular monthly salary,
- 124 regardless of the number of hours worked.
- 125 (b) "Gainful employment" does not mean that an occupation or employment position in
- 126 the state is:
- 127 (i) available within any geographic boundaries of the state;
- 128 (ii) offered at a certain level of wages;
- 129 (iii) available at a particular number of hours per week; or
- 130 (iv) currently available.
- 131 (5) "Maximum benefit period" means the maximum period of time the monthly disability
- 132 income benefit will be paid under Section 49-21-403 for any continuous period of total

133 disability.

134 (6) "Monthly compensation" means:

135 (a) the amount an eligible employee's participating employer certifies under Section  
136 49-11-603; plus

137 (b) if not included in the amount described in Subsection (6)(a), the eligible employee's  
138 monthly compensation for the average number of hours the eligible employee  
139 demonstrates the eligible employee worked per week during the preceding 12-month  
140 period that exceeded the eligible employee's regular weekly schedule, up to 10 hours  
141 per week, calculated at the eligible employee's base rate of pay.

142 [(6)] (7) "Monthly disability benefit" means the monthly payments and accrual of service  
143 credit under Section 49-21-401.

144 [(7)] (8) "Objective medical impairment" means an impairment resulting from an injury or  
145 illness that is diagnosed by a physician and that is based on accepted objective medical  
146 tests or findings rather than subjective complaints.

147 [(8)] (9) "Ongoing disability" means, after the elimination period and the first 24 months of  
148 disability benefits, the complete inability due to objective medical impairment, as  
149 determined under Subsection 49-21-401(9), to engage in any gainful employment which  
150 is reasonable, considering the eligible employee's education, training, and experience.

151 [(9)] (10) "Own occupation disability" means the complete inability, due to objective  
152 medical impairment, whether physical or mental, to engage in the eligible employee's  
153 regular occupation during the elimination period and the first 24 months of disability  
154 benefits.

155 [(10)] (11) "Physician" means a licensed physician.

156 [(11)] (12) "Pilot period" means the period beginning on July 1, 2023, and ending on June  
157 30, 2026.

158 [(12)] "Regular monthly salary" means the amount certified by the participating employer  
159 as the eligible employee's monthly [~~salary of the eligible employee~~] compensation,  
160 unless there is a discrepancy between the certified amount and the amount actually paid,  
161 in which case the office shall determine the regular monthly salary.

162 (13) "Regular occupation" means either:

163 (a) the primary duties performed by the eligible employee for the 12 months preceding  
164 the date of disability; or

165 (b) a permanent assignment of duty to the eligible employee, as long as the eligible  
166 employee has actually performed all the required duties of the permanent assignment

167 of duty.

168 (14) "Rehabilitative employment" means any occupation or employment for wage or profit,  
169 for which the eligible employee is reasonably qualified to perform based on education,  
170 training, or experience.

171 (15) "Total disability" means:

172 (a) own occupation disability; or

173 (b) ongoing disability.

174 (16)(a) "Workers' compensation indemnity benefits" means benefits provided that are  
175 designed to replace wages under Title 34A, Chapter 2, Part 4, Compensation and  
176 Benefits, including wage replacement for a temporary disability, temporary partial  
177 disability, permanent partial disability, or permanent total disability.

178 (b) "Workers' compensation indemnity benefits" includes a settlement amount following  
179 a claim for indemnity benefits.

180 Section 3. Section **49-21-401** is amended to read:

181 **49-21-401 (Effective upon governor's approval). Disability benefits --**

182 **Application -- Eligibility.**

183 (1) An eligible employee shall apply for long-term disability benefits under this chapter by:

184 (a) completing an application form prepared by the office;

185 (b) signing a consent form allowing the office access to the eligible employee's medical  
186 records; and

187 (c) providing any documentation or information reasonably requested by the office.

188 (2)(a) If an eligible employee is unable to apply on the employee's own behalf, the  
189 application may be made by a person who is:

190 (i) the attorney for an eligible employee; or

191 (ii) appointed as a conservator or guardian of the eligible employee.

192 (b) A person described in Subsection (2)(a), may not make an application for a deceased  
193 employee.

194 (3) Upon request by the office, the participating employer of the eligible employee shall  
195 provide to the office documentation and information concerning the eligible employee.

196 (4) The office:

197 (a) shall review all relevant information;

198 (b) may request additional information; and

199 (c) shall determine whether or not the eligible employee has a total disability.

200 (5)(a) If the office determines that the eligible employee has a total disability due to  
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202 accidental bodily injury or illness that is not the result of the performance of an  
203 employment duty, the eligible employee shall receive a monthly disability benefit  
204 equal to:

205 (i) two-thirds of the eligible employee's regular monthly salary, for each month the  
206 total disability continues beyond the elimination period, not to exceed the  
207 maximum benefit period; minus

208 (ii) any required reductions or reimbursements under Section 49-21-402.

209 (b) For an eligible employee under an own occupation disability, the office shall, at the  
210 end of the two-year disability period or when a claim for total disability is made by  
211 an eligible employee:

212 (i) review and determine whether the eligible employee qualifies for ongoing  
213 disability benefits;

214 (ii) make the determination under Subsection (5)(b)(i) as of the day after the eligible  
215 employee's own occupation disability benefits end;

216 (iii) consider only objective medical impairment that the office determines as a  
217 disabling condition on the date of disability; and

218 (iv) exclude any new intervening causes or new diagnoses during the own occupation  
219 disability period.

220 (6)(a) An eligible employee shall receive a monthly disability benefit equal to 100% of  
221 the eligible employee's regular monthly salary for each month the total disability  
222 continues beyond the elimination period, not to exceed the maximum benefit period,  
223 but reduced by any required reductions and reimbursements under Section 49-21-402,

223a

224 if the office determines that the employee meets all of the following:

225 (i) the eligible employee has a total disability:

226 (A) during the pilot period, due to a physical objective medical impairment or a  
227 mental objective medical impairment; or

228 (B) except as provided in Subsection (6)(b), after the pilot period, due to a  
229 physical objective medical impairment;

230 (ii) the objective medical impairment described in Subsection (6)(a)(i) resulted from  
231 physical, external force or violence to the body of the eligible employee in the  
232 performance of an employment duty; and

233 (iii) the eligible employee received workers' compensation indemnity benefits for the  
234 objective medical impairment described in Subsection (6)(a)(i).

- 235 (b) If an eligible employee qualifies for a total disability during the pilot period, the  
236 office shall determine whether the employee has a total disability after the pilot  
237 period due to a physical objective medical impairment or a mental objective medical  
238 impairment.
- 239 (c) An eligible employee who receives workers' compensation indemnity benefits for an  
240 objective medical impairment is not guaranteed to receive the 100% monthly  
241 disability benefit described in Subsection (6)(a).
- 242 (7)(a) Successive periods of disability are considered as a continuous period of  
243 disability if the period of disability:
- 244 (i) results from the same or related causes;
- 245 (ii) is separated by less than six months of continuous full-time work at the  
246 individual's usual place of employment; and
- 247 (iii) commences while the individual is an eligible employee covered by this chapter.
- 248 (b) The inability to work for a period of less than 15 consecutive calendar days is not  
249 considered as a period of disability.
- 250 (c) If Subsection (7)(a) or (b) does not apply, successive periods of disability are  
251 considered as separate periods of disability.
- 252 (8) The office may, at any time, have any eligible employee claiming to have a disability  
253 examined by a physician chosen by the office to determine if the eligible employee has a  
254 total disability.
- 255 (9)(a) For purposes of determining whether an eligible employee has an ongoing  
256 disability, inability is determined:
- 257 (i) during the pilot period, due to physical objective medical impairment or mental  
258 objective medical impairment; or
- 259 (ii) except as provided in Subsection (9)(b), after the pilot period, due to a physical  
260 objective medical impairment.
- 261 (b) If an eligible employee has a total disability during the pilot period, the office shall  
262 determine whether the employee has an ongoing disability after the pilot period due  
263 to a physical objective medical impairment or a mental objective medical impairment.
- 264 (10) A claim brought by an eligible employee for long-term disability benefits under the  
265 Public Employee's Long-Term Disability Program is barred if it is not commenced  
266 within six months from the eligible employee's date of disability, unless the office  
267 determines that under the surrounding facts and circumstances, the eligible employee's  
268 failure to comply with the time limitations was reasonable.



- 269 (11)(a) If the office denies or terminates a claim for long-term disability benefits, the  
270 eligible employee shall have the right to appeal the denial or termination:
- 271 (i) to the executive director of the office within 60 days after the day of the denial or  
272 termination of long-term disability benefits; and
  - 273 (ii) in accordance with Section 49-11-613.
- 274 (b) An appeal of a denial or termination of long-term disability benefits described in  
275 Subsection (11)(a) is barred if it is not commenced within the time limit described in  
276 Subsection (11)(a).
- 277 (12) Medical or psychiatric conditions that existed before eligibility may not be a basis for  
278 disability benefits until the eligible employee has had one year of continuous eligibility  
279 in the Public Employees Long-Term Disability Program.
- 280 (13) If there is a valid benefit protection contract, service credit shall accrue during the  
281 period of total disability, unless the disabled eligible employee is:
- 282 (a) exempted from a system;
  - 283 (b) eligible to retire with an unreduced retirement allowance; or
  - 284 (c) otherwise ineligible for service credit.
- 285 (14) Regardless of any medical evidence provided by the employee to support the  
286 application for disability, an employee is not eligible for long-term disability benefits  
287 during any period in which the employee:
- 288 (a) makes a claim that the employee is able to work; or
  - 289 (b) has a pending action in a court or before any federal, state, or local administrative  
290 body in which the employee has made a claim that the employee is able to work.
- 291 (15) Notwithstanding the provisions of Section 49-11-618, upon written request by an  
292 employer, information obtained under this part may, upon an order of a court or an  
293 administrative law judge, be released to an employer who is a party in an action under  
294 Subsection (14).
- 295 (16)(a) Subject to Subsection (16)(b), if an eligible employee is receiving long-term  
296 disability benefits on the date of the eligible employee's death, the program shall pay  
297 the eligible employee's beneficiary, as defined in Section 49-11-102, a lump sum  
298 payment equal to three months of the eligible employee's monthly disability benefit.
- 299 (b) Section 49-21-402 does not apply to a lump sum payment described in Subsection  
300 (16)(a).
- 301 (17) An eligible employee receiving long-term disability benefits is eligible for any life  
302 assistance counseling that the program offers.

303 ~~[(16)]~~ (18) On or after May 1, 2025, but on or before November 1, 2025, the office shall  
304 provide a written electronic report to the Retirement and Independent Entities  
305 Committee regarding the costs and benefits of the changes to the disability benefits  
306 during the pilot period.

307 Section 4. **Effective Date.**

308 This bill takes effect:

309 (1) except as provided in Subsection (2), May 7, 2025; or

310 (2) if approved by two-thirds of all members elected to each house:

311 (a) upon approval by the governor;

312 (b) without the governor's signature, the day following the constitutional time limit of  
313 Utah Constitution, Article VII, Section 8; or

314 (c) in the case of a veto, the date of veto override.